REMARKS

Claims 6-33 and 36-41 are pending, with claims 1-5, 34, and 35 having been withdrawn in view of the Restriction Requirement mailed June 20, 2006, to which this paper is responsive. No claims are amended. In the Official Action mailed June 20, 2006, Examiner interposed a restriction requirement between Invention I (identified by Examiner as apparatus claims 6-33 and 36-39) and Invention II (identified by Examiner as method claims 1-5, 34, 35, 40 and 41). Applicant herewith elects, with traverse, to prosecute Invention I herein, such that claims 6-33 and 36-39 are presented for prosecution, along with claims 40 and 41 for reasons which will be explained, and claims 1-5, 34, and 35 are presently withdrawn.

Examiner had included claims 40 and 41 with Invention II because the claims, even though cast as apparatus claims, erroneously depended from method claims 3 and 4. That was a typographical error, as they should have depended from claims 39 and 40, respectively. That error has been corrected herein. It is therefore respectfully submitted that claims 40 and 41 are properly grouped with Invention I.

With respect to the merits of the restriction requirement, it is respectfully submitted that, despite Examiner's indication of where the apparatus and method might be classified, a search for either the apparatus or the method would likely encompass a search for both. As the search effort would thus be the same, the Office resources would be sufficient to address all issues in one case, rather than place Applicant at risk of having to endure the costs of multiple filings and, if successful, multiple patents. Hence, it is submitted that the restriction requirement is inappropriate for that reason alone. Applicant expressly makes no admission, however, that art teaching the apparatus would render obvious the method (or vice versa). Thus, Applicant does not here take a position, or make any concession, as to whether or not the apparatus and method are patentably distinct. Rather, Applicant submits that a

search of the art would likely encompass both thus negating the need for any sort of election (and also saving Applicant the potential cost of multiple patents).

Nonetheless, to be responsive and to move prosecution forward, Applicant has elected what Examiner has identified as Invention I, without waiver of the right to seek claims directed to what Examiner has identified as Invention II in a subsequent or further filing.

Conclusion

In view of the foregoing, Applicant requests withdrawal of the restriction requirement and, in any event, elects Invention I and apparatus of claims 6-33 and 36-41. Applicant respectfully solicits examination on the merits and a formal Notice of Allowance at the earliest opportunity. If any issues remain, Examiner is respectfully asked to telephone undersigned attorney in an effort to promptly resolve same, especially since this case is now well over two years old, and has yet to have the benefit of an examination on the merits.

No fee is believed due for this paper. If any fee is due, please take this as authorization to charge same to our Deposit Account 23-3000.

Respectfully submitted,

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